United Nations CAT/C/NLD/QPR/7

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
14 January 2016

Original: English
English, French and Spanish only

Committee against Torture

List of issues prior to submission of the seventh periodic report of the Netherlands*

The Committee against Torture, at its thirty-eighth session (A/62/44, paras. 23 and 24), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

1. Please clarify whether the crime of torture is incorporated in the criminal codes that are applicable in Curaçao and Sint Maarten, as well as in Bonaire, Sint Eustatius and Saba, and whether the definition of the crime is compatible with article 1 of the Convention.

Article 2[1]

2. With reference to the Committee's previous concluding observations (see CAT/C/NLD/CO/5-6, para. 9),[2] please indicate whether the provisions of the Convention, including the definition of torture contained in article 1, have been directly invoked before and applied by judicial, administrative or other mechanisms throughout the State party. If

* Adopted by the Committee at its fifty-sixth session (9 November-9 December 2015).

[1] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

[2] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

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so, please provide detailed examples from each part of the State party: (a) the European part, along with Bonaire, Saba and Sint Eustatius; (b) Aruba; (c) Curaçao; and (d) Sint Maarten. Please also indicate which measures have been taken to raise awareness of the Convention and its direct applicability among all public authorities in each part of the State party.

3. With reference to the Committee's previous concluding observations (para. 10), and the information received from the State party on follow-up to the concluding observations,[3] please provide updated information on:

(a) The status of adoption of the draft implementing legislation of Directive 2013/48/EU of the European Parliament and of the Council on the right of access to a lawyer. Please also provide information on the type of cases in which the assistance of a lawyer can be refused on the grounds of urgent need to avert serious adverse consequences for a person's life, liberty or physical integrity or to prevent substantial jeopardy to the investigation. Please explain who, under the draft legislation, decides whether access to a lawyer should be refused, the maximum time for which a detainee may be denied access to a lawyer in such cases, whether the refusal can be appealed and to whom, and how frequently this refusal regime has been used;

(b) Any new legislation and measures taken in the meantime to guarantee that all persons deprived of their liberty have access to an ex officio lawyer as from the moment of deprivation of liberty and during interrogation by law enforcement officials. Please provide this information for each of the part of the State party. Please also explain how the State party safeguards access to a lawyer for migrants that have been placed in isolation and whether the new legislative proposal for a law on return and immigration detention will explicitly ensure access to a lawyer in such cases;

(c) Measures taken to incentivize the presence of lawyers in Bonaire, Saba and Sint Eustatius in order to effectively guarantee access to an ex officio lawyer from the moment of deprivation of liberty;

(d) Measures taken to ensure that all detainees can enjoy in practice their right to contact relatives or next of kin within 24 hours. Please explain whether there are any restrictions on this right, who can decide to refuse to allow such contact and under which circumstances;

(e) Measures taken in each part of the State party to ensure the monitoring of compliance by all public officials with fundamental legal safeguards, and to guarantee that public officials who deny these safeguards to persons deprived of their liberty are disciplined or prosecuted.[4] Please include information on the number of complaints lodged and cases initiated for failure to comply with fundamental legal safeguards and the outcome of those cases, including the penalties applied, during the period under review.

4. With reference to the Committee's previous concluding observations (para. 30), please provide the following information in relation to domestic and gender-based violence for each part of the State party and for the period under review:

(a) Annual data, disaggregated according to the type of crime and the age and sex of the victim, on the number of victims of domestic and gender-based violence, including the number of those who died as a result, the number of complaints lodged or allegations registered by the police, the number of such complaints that were investigated, how many of those complaints led to prosecutions and convictions and the punishment

[3] CAT/C/NLD/CO/5-6/Add.1, paras. 4-9.
[4] See A/HRC/WG.6/19/PRT/3, para. 43.

imposed in those cases.[5] Please also indicate the number of protection orders granted compared with the number requested;

(b) Updates on the means of redress provided to victims, including legal, medical and psychological assistance, the number of shelters and their occupancy rate, the procedure to obtain compensation, the percentage of cases in which compensation was awarded and the average compensation granted;

(c) Updates on the measures taken to strengthen the prevention, investigation and punishment of all forms of domestic violence, including the neglect of children,[6] and gender-based violence, particularly in Bonaire, Saba and Sint Eustatius. Please indicate whether there is a methodology in the State party for assessing the effectiveness and impact of all the initiatives in this area;

(d) Updates on the steps taken to sensitize and train law enforcement personnel on the investigation and prosecution of cases of domestic and gender-based violence and on awareness-raising measures to fight gender stereotypes and domestic violence among the population at large. Please also indicate the measures taken to inform victims of domestic violence with residence status as dependants of the possibility of seeking assistance and residence status as independent persons. Please comment on reports indicating that the burden of proof for demonstrating that one is a victim of domestic or honour-related violence in order to obtain a residence permit is very high. In this regard, please indicate the percentage of cases in which a residence permit was granted on such grounds for the period under review.

5. With regard to the Committee's previous concluding observations (para. 25), please provide the following information in relation to the crime of trafficking in human beings for each part of the State party and for the period under review:

(a) Annual statistical data, disaggregated by age, sex, country of origin and employment sector of the victim, on the number of victims of trafficking and the number of complaints lodged and reports registered by the police regarding this crime, the number of those that were investigated, how many led to prosecutions and convictions and the punishment imposed in these cases. Please also provide information on the outcome of the motion adopted by the Parliament of the Netherlands in 2013 to start an independent investigation of trafficking occurring in Bonaire, Saba and Sint Eustatius;

(b) Updates on the means of redress provided to victims, including legal, medical and psychological assistance, the number of shelters and their occupancy rate, the procedure for obtaining compensation, the percentage of cases in which compensation was awarded and the average compensation granted. Please explain the efforts undertaken to provide residence permits, even when the victim is unable to cooperate with the authorities,[7] and protection against return to all victims and witnesses of trafficking, particularly when the person would be in danger of torture, exploitation or ill-treatment in his or her country of origin. In this regard, please indicate the percentage of victims of trafficking that were granted a residence permit. Please also indicate the assistance and protection measures provided to victims and witnesses, irrespective of their wish to pursue a case against the traffickers or of the success of the criminal investigation;

(c) Measures taken to strengthen the prevention, investigation and punishment of trafficking, as well as the identification of victims, particularly underage victims of "lover

[5] See CRC/C/NLD/CO/4, para. 37 (a).
[6] Ibid.
[7] Ibid., paras. 56-57.

boy" scams on the Internet.[8] Please indicate whether a national referral mechanism has been set up, in compliance with directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. Please also indicate if any research was conducted into the impact of preventive measures and criminal justice responses aimed at countering trafficking, with a view to increasing their effectiveness;

(d) Steps taken to sensitize and train front-line professionals in identifying victims of trafficking, particularly for the purpose of labour exploitation in high-risk sectors (e.g. agriculture, catering, dock work, meat processing and construction), and law-enforcement personnel, prosecutors, judges and labour inspectors in investigating, prosecuting and punishing cases of trafficking, as well as assisting and protecting the victims;

(e) Awareness-raising campaigns targeting the population at large, including with the aim of discouraging demand, in the light of the assessment of the impact of previous measures.

6. With regard to the Committee's previous concluding observations (para. 28), please indicate what progress has been made to extend the ratification of the Optional Protocol to the Convention to Bonaire, Saba and Sint Eustatius, and the autonomous entities of Aruba, Curaçao and Sint Maarten. In addition, please indicate the measures taken to ensure complete financial, operational and organizational independence of the three inspectorates integrating the national preventive mechanism (i.e. the Inspectorate of Security and Justice, the Health Care Inspectorate and the Inspectorate for Youth Care), in accordance with article 18 (1) of the Optional Protocol and the guidelines on national preventive mechanisms of the Subcommittee on Prevention of Torture. Please also clarify whether the national preventive mechanism can monitor all places where persons are deprived of their liberty other than penal institutions and youth detention centres.

7. With reference to the Committee's previous concluding observations (para. 29), please indicate what steps have been taken by the governments of Aruba, Curaçao and Sint Maarten to establish national human rights institutions.

Article 3

8. With regard to the Committee's previous concluding observations (para. 31), please provide annual statistical data for each part of the State party and for the period under review, disaggregated by the type of asylum procedure and the sex, country of origin and age of the person concerned, on:

(a) The number of asylum applications registered and the number of applications processed;

(b) The number of applications for asylum, refugee status or other forms of humanitarian protection that were granted, indicating, when applicable, the number of cases in which protection was granted in application of the principle of non-refoulement;

(c) The number of persons extradited, expelled or returned and the countries to which they were expelled or extradited;

(d) The number of appeals against expulsion or extradition decisions on the basis that applicants might be in danger of being subject to torture in their countries of destination, and the result of those appeals.

[8] Ibid.

9. With reference to the asylum procedure and the Committee's previous concluding observations (paras. 11 and 13), please provide information for each part of the State party on:

(a) Measures taken to ensure that asylum seekers, especially those applying under the accelerated procedure, have sufficient time to fully indicate the reasons for their application and substantiate their claims. Please also indicate the criteria according to which a case is dealt with under the accelerated procedure as opposed to the extended procedure and indicate how many applications of unaccompanied children were processed under the accelerated procedure and the measures taken to ensure that the protection needs of asylum seeking children are identified and addressed;

(b) Measures taken to ensure that a complete review of prior asylum decisions takes place in instances in which new evidence is provided in a new asylum request;

(c) Measures taken to ensure that the assessment of a well-founded fear of being subjected to torture in the country of destination takes into account previous experience of persecution or serious harm, and not only whether protection against widespread and generalized violence in the country is provided. In this regard, please comment on the compatibility with the Convention of the return of three men to the Democratic Republic of Congo after having given testimony to the International Criminal Court in proceedings against a Congolese former militia leader. Please also indicate the measures taken to ensure that persons claiming asylum on the basis of their sexual orientation are not sent to a country where they can suffer persecution.[9] In addition, please indicate the measures taken to refrain, in practice, from setting a higher burden of proof for undocumented asylum seekers than for documented applicants. Please also indicate whether article 29 (1) (c) of the Aliens Act has been amended and, if so, provide details of the amendment;

(d) Measures taken to ensure that all persons seeking asylum in the State party, including at its border crossings, enjoy all procedural guarantees, including adequate access to free-of-charge and qualified legal assistance and interpreters throughout the asylum procedure, including the appeals procedure;

(e) Measures taken to ensure that the appeal procedure provides for a full review of rejected applications and that the evidence presented throughout the appeal process and after the initial decision has been taken is fully considered. Please clarify whether there is an effective judicial remedy with automatic suspensive effect to challenge the deportation of asylum applicants and undocumented immigrants.

10. With regard to the Committee's previous concluding observations (para. 12), please provide the following information for each part of the State party:

(a) Measures taken to provide for a thorough medical and psychological examination and report, in accordance with the procedures set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), by trained independent health experts, with the support of professional interpreters, when signs of torture or trauma have been detected during personal interviews of asylum seekers or undocumented migrants, with a view to providing them with immediate treatment and rehabilitation;[10]

[9] See the judgement of the Court of Justice of the European Union in joined cases C-148/13 to C-150/13, *A, B and C v. Staatssecretaris van Veiligheid en Justitie* (2 December 2014).

[10] See Council of the European Union Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers in member States, art. 20.

(b) The number of torture victims identified among asylum seekers in relation to the total number of asylum seekers.

Articles 5, 7 and 8

11. Please indicate whether, since the consideration of its previous report, the State party has rejected, for any reason, the request of another State party for the extradition of an individual suspected of having committed torture and, if so, whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

12. With reference to the Committee's previous concluding observations (paras. 8 (c), 12 and 19), please provide information on the instruction provided for law enforcement personnel at all levels, State security organs, prison staff, immigration officials, judges, prosecutors, medical personnel dealing with detainees, forensic doctors and any other State agents involved in holding persons in custody, interrogation or treatment of any individual under any form of detention or imprisonment, including the overall size of the target group and the percentage of those trained, as well as the periodicity of the training, with respect to:

(a) The provisions of the Convention;

(b) The guidelines used to detect signs of torture and ill-treatment in accordance with international standards, such as those outlined in the Istanbul Protocol;

(c) Communication skills to deal with difficult detainees[11] and non-coercive investigatory and restraint techniques, as well as the principle of the use of force as a last resort;

(d) Issues related to violence against ethnic minorities, as well as against persons because of their sexual orientation or gender;

(e) Identification and referral of victims of trafficking, torture and sexual violence among asylum seekers.

13. Please indicate whether the State party has developed specific methodologies to evaluate the effectiveness and impact of such training on the prevention and absolute prohibition of torture.

Article 11

14. In the light of the Committee's previous concluding observations (para. 21) and the information received from the State party on follow-up to the concluding observations,[12] please provide updated information for each part of the State party and for the period under review on:

(a) The status of adoption of the Compulsory Mental Health Care Bill[13] and the changes it introduced to the current regime. Please also indicate the legal grounds for placing a person under involuntary confinement in psychiatric or social-care institutions;

[11] See "Report to the Government of the Netherlands on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 16 to 18 October 2013", para. 18.

[12] See CAT/C/NLD/CO/5-6/Add.1, paras. 97-106.

[13] Ibid, paras. 103-106.

(b) The status of adoption of the action plan and all measures to prevent and deal with wrongdoing in care facilities for persons with an intellectual disability;

(c) The measures taken to ensure that such confinement takes place only on the basis of a legal decision, as a measure of last resort and for the shortest appropriate period of time, as part of a procedure that takes into account the views of the individual concerned and that re-evaluates the decision of confinement at appropriate intervals with regard to its continuing necessity;

(d) The number of persons held in psychiatric and social-care institutions on an involuntary basis and the various means of challenging such detention initially and periodically, including the measures taken to facilitate access to complaint mechanisms for interned persons. Please indicate how many complaints challenging the legality of the detention have been lodged during the period under review and the results thereof;

(e) The measures taken to develop community-based or alternative social-care services for persons with psychosocial disabilities;

(f) The status of adoption of the multidisciplinary guidelines on compulsion and restraint and the changes they have introduced into the current regime;[14]

(g) Any other measure taken to prevent the use of restraints and isolation as punishments in psychiatric institutions and to strictly restrict measures of control so that they are used only as a last resort when other alternatives for control have failed, for the shortest time possible and under strict supervision. Please indicate the maximum time during which isolation and restraints can be used, what other alternative measures are in place as measures of control and whether there is regular medical supervision of the use of restraints.

15. In the light of the Committee's previous concluding observations (paras. 16 and 18) and the information received from the State party on follow-up to the concluding observations,[15] please provide updated information for each part of the State party and for the period under review on the measures taken to avoid the use of restraints, isolation and solitary confinement on undocumented migrants, including the use of restraints during forced returns,[16] the use of handcuffs in alien detention centres, and the use of isolation measures and continuous monitoring with video surveillance of persons on a hunger or thirst strike[17] or with suicidal thoughts. In this regard, please provide annual statistical data from 2013 onwards on the number of undocumented migrants placed in isolation and the measures taken to prevent suicide in places of detention without resorting to the use of isolation. Please also clarify whether the use of restraints and solitary confinement, as well as the maximum time during which they can be used, is regulated and what other alternative measures are in place as measures of control. Please also clarify the role of medical personnel in the imposition of restraint measures in detention centres and provide information on the measures taken to provide a medical examination to every person being forcibly removed prior to his or her departure, and to persons returning to detention after an aborted removal operation.[18] In addition, please provide information on the number of investigations initiated since 2013 regarding alleged incidents of excessive use of restraint

[14] Ibid., para. 97.
[15] Ibid. para. 83.
[16] See "Report to the Government of the Netherlands on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture", para. 24.
[17] See CAT/C/NLD/CO/5-6/Add.1, para. 83.
[18] See "Report to the Government of the Netherlands on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture", para. 27.

and force during forced returns or the use of isolation, and indicate what the outcome of those investigations was,[19] including the outcome of the complaint lodged by the Association of Asylum Lawyers of the Netherlands in March 2014.

16. With reference to the previous concluding observations (paras. 19, 21 and 26), please provide, for each part of the State party, annual statistical data from 2013 onwards, disaggregated by the place of deprivation of liberty and the victims' sex, age and ethnic origin on: (a) the number of deaths in custody, indicating the cause of death, including the suicide of a South African asylum seeker in the Rotterdam Detention Centre on 10 June 2015; and (b) the number of persons injured as a result of violence or the excessive use of restrictive measures inside places of detention, indicating whether the perpetrator was a State official or another fellow detainee. Please also provide detailed information on the outcome of investigations into such deaths or injuries, including penalties imposed on the perpetrators of torture, ill-treatment or negligence that caused the death or the injuries. In this regard, please indicate whether the alleged incidents of illegal use of force, insults and mistreatment in the Koraal Specht prison in Curaçao, and in police cells in Aruba, Bonaire and Sint Maarten, have been investigated, and indicate the outcome of the investigation. Please also indicate what information and remedies were provided to the victims of such violations and their families. In addition, please indicate the measures taken to safeguard the security of detainees in the light of the violent incidents that occurred in 1999 and 2011 in maximum security prisons when, on at least one occasion, prison guards refrained from intervening in a quarrel.

17. With reference to the Committee's previous concluding observations (paras. 20 and 30), please clarify whether the bill extending the grounds for pretrial detention has been adopted and, if so, please describe the changes introduced to the current regime of pretrial detention. Please also provide:

(a) Statistical data for each part of the State party, disaggregated by ethnicity and national origin, on the number of pretrial detainees in relation to the total number of persons deprived of their liberty, the occupancy rate of all places of detention and the average and maximum duration of pretrial detention;

(b) Information on the measures taken in each part of the State party to reduce the use of pretrial detention and enhance the use of alternative measures instead. Please also provide statistical data on the percentage of cases in which alternatives to detention have been applied;

(c) Information on any legislative changes to the criminal legislation of Aruba and Curaçao to shorten the length of pretrial detention and to guarantee the right to be brought before a judge within one or two days of arrest.

18. With reference to the previous concluding observations (paras. 14, 15 and 17) and the information received from the State party on follow-up to the concluding observations,[20] please provide, for each part of the State party, the following information:

(a) Measures taken to ensure that asylum seekers arriving at Amsterdam's Schiphol airport are not automatically detained. Please clarify whether the legislative amendments introduced to implement Directive 2013/33/EU of the European Parliament and the European Council laying down standards for the reception of applicants for international protection defined the exceptional circumstances under which an asylum seeker may be detained and provided guidelines for examining the necessity and

[19] Ibid., para. 51.

[20] CAT/C/NLD/CO/5-6/Add.1, paras. 74-81.

proportionality of the detention of asylum seekers, including for the purpose of further investigation, as well as to assess the risk of evading supervision for asylum seekers that will be transferred to another State member of the European Union under the Dublin II Regulation.[21] In addition, please clarify whether asylum seekers to be transferred to another European Union member State under the Dublin system may challenge their detention in the State party or the decision to transfer them to another European Union member State.[22] Please further indicate the measures that the State party has taken to ensure that the destination country under the Dublin system offers sufficient guarantees in the application of its asylum policy to prevent the person concerned from being removed to his or her country of origin without an assessment of the risks faced.[23] Please also indicate whether the asylum claims of unaccompanied children will be considered in the State party irrespective of whether the child has applied previously in another European State.[24] In addition, please indicate which alternatives to detention are considered when there are grounds for further investigating an asylum seeker's case. Please provide annual data from 2013 onwards on (i) the percentage of asylum seekers per year that have been detained beyond the eight-day period under the accelerated procedure, and the average duration of their detention; and (ii) the percentage of cases in which alternatives to detention have been applied;

(b) Status of adoption of the bill introducing a separate framework for the detention of undocumented migrants under administrative law and an explanation of the changes introduced to the current regime, in particular about the restrictive regime imposed at the beginning on anyone who has to spend time in detention. Please also indicate any other measures taken to ensure that undocumented migrants are detained only as a last resort, after alternative measures have been duly examined and exhausted, when necessary and as proportionate and for as short a period as possible. In this regard, please clarify whether the trial alternatives to alien detention mentioned in the information received on follow-up to the concluding observations[25] have been included in the legislative or normative framework, and provide annual data from 2013 onwards on: (i) the percentage of cases per year in which each of these alternatives has been applied in practice, as compared with the percentage of cases in which detention was imposed; (ii) the average duration of administrative detention of foreign nationals in each year; and (iii) the percentage of cases in which undocumented migrants have been repeatedly detained for periods longer than 18 months. Please indicate whether there are any guidelines or policies with respect to examining the necessity and proportionality of the administrative detention and prohibiting detention when there are no prospects for the migrant of being removed within a reasonable time. Please explain the measures taken to authorize stay in the State party for persons whose return is impossible or particularly difficult. Please also explain the measures taken to guarantee a prompt and thorough judicial review of decisions to deprive an individual of his or her liberty on the grounds of migration status;

(c) Measures taken to ensure that unaccompanied children and families with children are not detained[26] or, if they are, that it is done only as a measure of last resort, taking into account the best interest of the child as a primary consideration, after

[21] Ibid., para. 20.

[22] *Sharifi and Others v. Italy and Greece*, European Court of Human Rights, chamber judgement of 21 October 2014.

[23] Ibid.

[24] *Case C-648/11, MA, BT, DA v. Secretary of State for the Home Department*, Judgement of the European Union Court of Justice, 6 June 2013.

[25] See CAT/C/NLD/CO/5-6/Add.1, para. 77.

[26] See CRC/C/NLD/CO/4, para. 53 (d).

alternatives to detention have been duly examined and exhausted and for as short a period as possible. Please provide annual data from 2013 onwards on: (i) the percentage of unaccompanied children and families with children that have been detained, as well as the percentage of each group detained for longer than 14 days; (ii) the percentage of cases in which alternatives to detention have been applied; and (iii) the average duration of such detentions. Please also explain the measures taken to ensure that the age verification process for an unaccompanied minor takes place before administrative detention is imposed. In addition, please clarify whether there are any guidelines for examining the necessity for and proportionality of the automatic detention of unaccompanied children that can be returned to their country of origin within 14 days and whether other alternatives are also considered.[27] Finally, please indicate whether the State party has taken measures to ensure that the administrative detention of unaccompanied children does not take place in institutions for young offenders.[28]

19. With reference to the previous concluding observations (para. 16) and the information received from the State party on follow-up to the concluding observations,[29] please indicate whether all the alien detention centres in each part of the State party are using body scanners[30] and whether strip searches and body cavity searches are still carried out and, if so, on what grounds and whether they are always carried out by persons of the same sex as the person being searched. Please also provide information on the number of investigations initiated regarding alleged incidents of abusive behaviour during searches and indicate the outcome of those investigations, including the case of a female asylum seeker at the Zeist Detention Centre who was allegedly subjected to humiliating treatment on 7 March 2012 during a strip-search. Please also provide, for each part of the State party, the occupancy rate of reception and alien detention centres, disaggregated by place of detention. In addition, please indicate the measures taken to provide sufficient medical care to undocumented migrants, as well as sufficient care for persons with mental disabilities, at the detention centres. Please also indicate the measures taken to facilitate access to visits and contact with the outside world in detention centres, and to ensure that the conditions in reception centres and detention centres are adequate to the needs of children hosted therein.[31]

20. Please provide information on the measures taken to amend the laws related to the juvenile justice system in order to ensure that all children under the age of 18 are treated under a system of juvenile justice, irrespective of the gravity of the charges brought against them.[32] Please also indicate the measures taken to promote the use of alternative measures to detention for children in conflict with the law and to ensure that the deprivation of liberty of any child below the age of 18 is used as a measure of last resort, when other alternative measures have been exhausted and for the shortest possible time.[33] Please also explain the steps taken to ensure that no child under the age of 18 is held in an adult penitentiary institution, particularly in Bonaire, and that children are not detained with adults in police custody.[34] Finally, please explain the measures taken to ensure the provision of qualified

[27] CAT/C/NLD/CO/5-6/Add.1, para. 94.
[28] Ibid.
[29] Ibid., para. 79.
[30] Ibid., para. 83.
[31] See CRC/C/NLD/CO/4, para. 53 (d).
[32] Ibid., paras. 58 and 59 (a).
[33] Ibid., paras. 58 and 59 (b) and(c).
[34] Ibid., paras. 58 and 59 (d) and (e).

and independent legal aid to children in conflict with the law at an early stage of the procedure and throughout the proceedings.[35]

Articles 12 and 13

21. With reference to the Committee's previous concluding observations (paras. 8 and 30), please provide, in all four parts of the State party, annual statistical data from 2013 onwards, disaggregated by crime and the ethnicity, age and sex of the victim on: (a) the number of complaints filed and police reports initiated relating to torture, as well as the number of such complaints related to ill-treatment; attempted commission of, or complicity or participation in, such acts; and killings or excessive use of force, allegedly committed by, or with the acquiescence or consent of, law enforcement, security, military or prison personnel; (b) the number of investigations initiated as a result of those complaints and by which authority; (c) the number of complaints dismissed; (d) the number of complaints that led to prosecutions; (e) the number of complaints that led to convictions; and (f) the penal and disciplinary sanctions that were applied, including the length of prison sentences. Please also specify: (a) the number of ex officio investigations into cases of torture and ill-treatment and the number of ex officio prosecutions per year; and (b) the number of cases of torture or ill-treatment reported by doctors following medical examinations of detainees, and the outcome of those cases.

22. In the light of the Committee's previous concluding observations (para. 23) and the information received from the State party on follow-up to the concluding observations,[36] please explain, for all four parts of the State party:

(a) How the independence of the Integrity Bureau of the Custodial Institutions Agency, the Supervisory Committee and other disciplinary bodies is guaranteed during disciplinary investigations of prison staff so that there is no hierarchical or institutional link between the suspected perpetrators and the investigator. Please provide information on whether the prosecutor is always informed of the opening and closing of disciplinary investigations by one of the above-mentioned bodies regarding cases of torture or ill-treatment, or if the prosecutor is informed only when the Integrity Bureau of the Custodial Institutions Agency or the Supervisory Committee considers that the facts warrant a criminal investigation;

(b) The composition of the Prison Supervisory Board competent to act upon complaints of prisoners in Aruba,[37] and how its independence is ensured;

(c) How the independence of the Internal Relations Bureau at the Curaçao Detention and Correction Centre, composed of a former police officer and two prison officers, and the Public Service Investigations Agency is guaranteed during the investigation of allegations of torture or ill-treatment by detention personnel, so that there is no hierarchical or institutional link between the suspected perpetrators and the investigators.[38] Please also provide information on whether the prosecutor is always informed of the opening and closing of investigations by this body;

(d) How the independence of the new monitoring functions of the Security and Justice Inspectorate during operations to remove undocumented migrants will be

[35] Ibid., paras. 58 (e) and 59 (f).
[36] See CAT/C/NLD/CO/5-6/Add.1, para. 16.
[37] Ibid., para. 16.
[38] Ibid., para. 25.

guaranteed. Please clarify if a system for filing complaints with the Inspectorate will be in place during removal operations;[39]

(e) The measures taken to ensure that all suspects in prima facie cases of torture and ill-treatment are always suspended or reassigned during the process of investigation;

(f) The measures taken to reduce the number of instances of ill-treatment in detention facilities, including immigration detention facilities. Please also indicate if any research was conducted into the impact of these measures, with a view to increasing their effectiveness;

(g) Whether any criminal investigation was initiated ex officio with regard to instances of inter-prisoner violence in Aruba and Curaçao and, if so, what the outcome was and whether the victims and their families obtained compensation.[40] Please also provide information on how many cases of inter-prisoner violence have occurred since 2013 in these two places and what measures have been taken to reduce the number of such cases, as well as the period of solitary confinement imposed on prisoners as a punishment in Aruba. Please also clarify how often the physical and mental condition of detainees is monitored during solitary confinement and whether detainees in solitary confinement have any meaningful social contact during the application of that measure.

23. With reference to the Committee's previous concluding observations (para. 22) and the information received from the State party on follow-up to the concluding observations,[41] please provide information, for all four parts of the State party, on:

(a) Measures taken to sensitize detainees, including in immigration detention centres, about the possibility of and procedure for filing a complaint of alleged torture or ill-treatment by State officials, and to make such information widely publicized, including by displaying it in all places of detention;

(b) Measures taken to guarantee the confidentiality of complaints and the protection of complainants and victims, particularly in cases in which the victims are deprived of their liberty, and to protect victims or complainants against intimidation and reprisals as a consequence of their complaints;

(c) Measures taken to ensure that the complaints received by the supervisory committees are formally and satisfactorily answered and investigations are initiated whenever there are allegations of torture, ill-treatment or poor detention conditions. Please clarify whether a complainant is always informed of the outcome of his or her complaint, including if he or she has been released from a detention facility.

Article 14

24. With reference to the Committee's previous concluding observations (paras. 24 and 30) and paragraph 46 of its general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information for each part of the State party on:

(a) Compensation ordered by the criminal and civil courts, as well as the Criminal Injuries Compensation Fund,[42] to victims of torture and ill-treatment and their families since the consideration of the previous periodic report. This information should

[39] See "Report to the Government of the Netherlands on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture", paras. 47 and 51; and CAT/C/NLD/CO/5-6/Add.1, para. 98.

[40] CAT/C/NLD/CO/5-6/Add.1, table 1.

[41] Ibid., paras. 10-13.

[42] See CAT/C/NLD/6 and Corr.1, para. 90.

include the number of requests for compensation that have been made, the number of requests granted and the amounts ordered and actually provided in each case. Please explain which measures have been taken in each part of the State party to provide other forms of redress (restitution, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition) to victims of torture and ill-treatment, and how many of these measures have been granted effectively to victims of torture and ill-treatment for the period under review;

(b) Any rehabilitation programmes for victims of torture and ill-treatment, specifying whether they include medical and psychological assistance;

(c) Protective measures available to victims of torture or ill-treatment and members of their families, indicating the number of protective measures that have been made available to victims of torture, compared with the number of requests made. Please also state whether victims of torture have access to free legal aid.

25. Please indicate which redress measures, if any, were granted to the victims of the fire in the immigration detention centre at Amsterdam's Schiphol airport in 2005 or to their families. Please also clarify whether criminal or disciplinary proceedings were initiated against the authorities in charge of the immigration detention centre in relation to the fact that fire precautions severely failed during the event.

Article 16

26. With reference to the Committee's previous concluding observations (paras. 19 and 30), please provide information on:

(a) Annual statistical data from 2013 onwards, disaggregated by offence or crime, as well as the ethnicity, age and sex of the victim on: (i) the number of complaints filed against police officers concerning racist or racially discriminatory acts; (ii) the number of investigations initiated as a result of those complaints and which authority initiated them; (iii) how many complaints were dismissed; (iv) how many complaints led to prosecutions or disciplinary actions; (v) how many complaints led to convictions; and (vi) which penal and disciplinary sanctions were applied;

(b) Measures taken to monitor and prevent ethnic profiling and ethnically motivated attacks and abuses, as well as to ensure the effective investigation and prosecution of such attacks;

(c) Measures taken to publicly condemn attacks against minorities and increase awareness-raising measures, including among the police, to promote tolerance and respect for diversity.

27. In the light of the Committee's previous concluding observations (para. 27), please indicate whether the pilot plan to distribute electric discharge weapons (Tasers) to the entire police force of the Netherlands has been implemented and, if so, please indicate in which parts of the State party and to which State forces they were distributed. Please also provide information on the measures taken to train the personnel allowed to use these weapons, to monitor the use of Tasers through mandatory reporting and reviews and to limit their use to extreme situations in which there is a real and immediate threat to life or risk of serious injury.

28. Please provide information on the legislative measures taken to explicitly prohibit corporal punishment in all settings, including in the home, in Aruba, Bonaire, Saba and Sint

Eustatius,[43] and to raise awareness of positive, non-violent and participatory forms of child-rearing throughout the State party.[44]

29. Please provide information on the measures taken to prevent sexual abuse of children in residential institutions and foster care, in particular abuse of children with mental health conditions, and to establish child-friendly and confidential complaint mechanisms in all these settings.[45] Please also indicate the measures taken to improve the identification of cases of ill-treatment of children by professionals working with children.[46] Please also provide information on the number of investigations initiated since 2013 regarding alleged incidents of abusive behaviour against children in residential institutions and foster care and indicate what the outcome of those investigations was.

30. Please provide information on the legislative and other measures taken to improve the identification and determination of statelessness and establish an efficient and accessible procedure for determining statelessness among children born in the State party.

31. Please provide information on the amendments to the Medical Research Act in relation to non-therapeutic medical research involving minors and adults who are incapable of giving informed consent. With regard to persons with variations of sex development (intersex persons), please clarify whether unnecessary medical or surgical treatment aimed at determining the sex of a child is permitted and performed on children and adults who are incapable of giving informed consent. If so, please indicate which criminal or civil remedies are available for victims in these cases and whether they are subject to any statute of limitations.

Other issues

32. Please provide updated information on the measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these anti-terrorism measures have affected human rights safeguards in law and practice and how it has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training given to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

General information on other measures and developments relating to the implementation of the Convention in the State party

33. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes, including resources allocated, statistical data and any other information that the State party considers relevant.

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[43] See CRC/C/NLD/CO/4, para. 37 (e).
[44] Ibid.
[45] Ibid, paras. 36 (b) and 37 (b).
[46] Ibid, paras 36 (c) and 37 (c).